

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

R.S.A. No. 605 of 2003

Date of decision February 6, 2007

Harpal Singh and others

.....Appellants

Versus

Rajinder Kumar

.....Respondent

CORAM: HON'BLE MR. JUSTICE VINEY MITTAL

Present:- Sh. Amarjeet Markan, Advocate
for the appellants.

Sh. Vijay Sharma, Advocate
for the respondents.

Viney Mittal, J (Oral)

The legal representatives of the deceased-defendant are in second appeal. The defendants have concurrently lost before the two Courts below in a suit for specific performance filed by the plaintiff-Rajinder Kumar.

The plaintiff had filed a suit for specific performance with regard to the agreement dated May 21, 1991 with the plea that the aforesaid agreement had been entered by the defendant-Kartar Singh for sale of the property in question for a consideration of Rs.1,63,625/- and Rs.60,000/- was paid as earnest money vide a cheque dated May 21, 1991. It was claimed that plaintiff was always ready and willing to perform his part of the agreement but the defendant had failed to execute the sale deed in question.

The defendant had denied the execution of the agreement and took a usual plea that the agreement in question had been prepared by the plaintiff on account of transactions between the plaintiff

and the defendant. It was claimed that plaintiff was a commission agent and it was possible that thumb impression of the defendant might have been obtained on a blank paper.

Both the Courts below on the basis of the appreciation of evidence, have rejected the defence raised by the defendant. It has been held that the defendant had executed the agreement in question and had received earnest money. It has also been held that the plaintiff was always ready and willing to perform his part of the agreement.

Sh. Amarjeet Markan, learned counsel appearing for the appellant has contended that one of the attesting witness of the alleged agreement had been examined as DW-2 by the defendants and the said witness has not supported the claim made by the plaintiff.

I have duly considered the aforesaid contention of learned counsel but find myself unable to agree with the same.

The two Courts below have duly taken into consideration the statement of DW-2-Jagtar Singh and even, thereafter have held that the claim of the plaintiff was duly proved.

Nothing has been shown that the findings of fact recorded by the two Courts below suffer from any infirmity or are contrary to the record.

No question of law, much less any substantial question of law, arises in the present appeal.

Dismissed.

(VINEY MITTAL)
JUDGE

February 6, 2007
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